



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation
on the 26th day of August 2003

Applications of

United Air Lines, Inc.

United Parcel Service Co.

**for certificates of public convenience and necessity
under section 41102 of Title 49 U.S.C. and the orders
and regulations of the Department of Transportation**

**Dockets OST-1995-370
OST-1996-1131
OST-1996-1248
OST-1996-1873**

OST-1999-6345

ORDER ISSUING CERTIFICATES

The captioned applicants seek grant, renewal, and/or amendment of certificates of public convenience and necessity under section 41102 of Title 49 of the United States Code. The applications are fully described in the attachments to this order. Because the public convenience and necessity bases for granting these applications are clear, and the applications are not controversial, it is appropriate to use this simplified, Subpart B procedure to grant the requested authority.¹

The applicants have filed and perfected each application as required by 14 CFR 201 and served it as required by 14 CFR 302.203(b). Each application was summarized in the Federal Register, as cited in the relevant descriptive attachment, and was also

¹ 14 CFR 302.212 et seq. Under Rule 33(b) we may, in our discretion, omit a tentative decision in proceedings under Subpart B and proceed directly to a final decision.

summarized in the Department's published weekly list of applications filed. These notices described the authority sought and gave interested persons an opportunity to submit evidence and objections to the award of the authority. Except to the extent noted no answers to these applications were filed.

Public Convenience and Necessity

We find that grant or amendment of these certificates is consistent with the public convenience and necessity. Where, as noted, the services authorized are the subject of a bilateral agreement, the certificate is consistent with the agreement and uses rights for which the United States has exchanged valuable operating rights. For authority which is not the subject of a bilateral agreement, the grant is consistent with the overall state of aviation relations between the United States and the foreign countries involved. All of the authority conferred here contributes to the variety of price and service options available to travelers and shippers.

Fitness/Citizenship

Each applicant is a citizen of the United States as defined in 49 U.S.C. 40102(a)(15). Each is an operating certificated air carrier for which the authority at issue here would not constitute a substantial change in operations that would require further review by the Department. No information has come to our attention that leads us to question the fitness of the applicants to conduct air transportation operations. Therefore, on the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we find each applicant is fit, willing and able to provide the services authorized.

Terms, Conditions and Limitations

Each certificate of public convenience and necessity is subject to the standard terms, conditions, and limitations we consistently impose in the public interest. Duration of certificate authority is determined by the nature of the routes at issue. Where multiple U.S. carriers may serve routes, without restrictions on additional entrants, the certificates are of indefinite duration. Where limited-entry routes are involved, we issue temporary, experimental certificates of five years' duration under 49 U.S.C. 41102(c).²

The certificates issued to United Air Lines, Inc. (United) to serve Japan and the Philippines, and United Parcel Service Co. (UPS) to serve Colombia, Ecuador, and Brazil are granted for a five-year term; the certificate issued to United to serve Peru is granted for an indefinite duration.

² 14 CFR Part 399.120.

Pendente Lite Exemptions

For those services operated under current exemptions, those exemptions will expire in accordance with their own terms 90 days after we submit this order for review under 49 U.S.C. 41307. For those routes operated under expired exemptions and kept in force by 5 U.S.C. 558(c), the exemption renewal applications on file will be dismissed by separate order, upon the effectiveness of the corresponding certificates of public convenience and necessity. The attachments cite the relevant currently held authority.

Findings and Conclusions

In view of the foregoing and all the facts of record, we find and conclude that:

1. It is consistent with the public convenience and necessity to amend or issue each applicant a certificate in the form attached;
2. Each applicant is a citizen of the United States and is fit, willing and able to perform properly the foreign air transportation described in the attached certificate or certificate amendment and to conform to the provisions of Subtitle VII of Title 49, United States Code (Transportation), and to the Department's rules, regulations, and requirements;
3. The public interest requires that the exercise of the privileges granted by the attached certificates and certificate amendments be subject to the terms, conditions, and limitations contained in and attached to those certificates and to such others required by the public interest as the Department may prescribe;
4. Except as otherwise noted in the attachments, the issuance of each of these certificates and certificate amendments does not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975, as defined by section 313.4(a)(1) of the Department's regulations;³ and
5. The public interest does not require an oral evidentiary hearing or a show-cause proceeding on any of these applications. There are no material, determinative issues of fact requiring such procedures for their resolution.

ACCORDINGLY,

1. We amend or issue in the form attached, certificates of public convenience and necessity to the applicants listed in the caption of this order;

³ Our finding is based on the fact that grant of each application would not result in a near-term increase in annual fuel consumption in excess of 10 million gallons.

2. We grant all motions for leave to file otherwise unauthorized documents in the captioned dockets;
3. We defer action on the applications of United Air Lines, Inc. in Dockets OST-1996-1248 and OST-1996-1873 to the extent that they seek renewal of United's authority to serve Vietnam.⁴
4. To the extent not granted or dismissed, we deny all motions and requests in these dockets;
5. We will not entertain petitions for reconsideration of this order;⁵
6. Unless disapproved by the President of the United States under 49 U.S.C. 41307, this order and the attached certificates and certificate amendments shall become effective upon the 61st day after its submission for section 41307 review, or upon the date of receipt of advice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove the Department's order under that section, whichever occurs earlier;⁶ and
7. We will serve this order on the parties to the captioned dockets of this order, the Ambassador in Washington, DC of each country that the applicants seek authority to serve, the U.S. Department of State (Office of Aviation Negotiations), and the Federal Aviation Administration.

By:

MICHAEL W. REYNOLDS
Acting Assistant Secretary
for Aviation and International Affairs

(SEAL)

⁴ See Attachment C, page 1.

⁵ All parties have had a full opportunity to comment on the applications filed. In each case, no objections were filed to the applications for new or amended certificate authority included in this order.

⁶ This order was submitted for section 41307 review on August 26, 2002. On October 14, 2003, we received notification that the President's designee under Executive Order 12597 and implementing regulations did not intend to disapprove the Department's order.

United Air Lines, Inc.

Renewal of Certificate for **Route 703**

Filed: February 12, 2001 **Docket:** OST-95-370 **Notice:** 66 FR (13905) 3/8/01
Amended: September 9, 2002 67 FR (59329) 9/20/02

- I. **Authority Sought:** Renew certificate authority on Route 703 to provide scheduled foreign air transportation of persons, property, and mail between Miami, Florida and Lima, Peru. Amend this authority to reflect the broader U.S.-Peru authority permitted U.S. carriers under the U.S.-Peru aviation agreement for services between points in the United States via intermediate points and points in Peru and beyond. United requested renewal of its authority for an indefinite duration.
- II. **Relevant Currently Held Authorities:** United holds certificate authority on Route 703 to serve the above market (Order 96-7-33). Under the terms of the certificate United's authority expired on August 22, 2001. United filed a timely application for renewal and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application.
- III. **Pleadings:** No answers were filed.
- IV. **Public Convenience and Necessity:** The authority is consistent with the Multilateral Agreement on the Liberalization of International Air Transportation to which Peru and the United States are parties.
- V. **Fitness/Citizenship:** United has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 2002-5-25. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention that would lead us to question the fitness of United to conduct the air transportation operations authorized here.
- VI. **Terms, Conditions and Limitations:** Standard. We will reissue United's certificate for Route 703 to grant the requested authority.

- VII. Duration:** The duration of certificate authority is determined by the nature of the routes at issue. Where routes may be served by multiple U.S. carriers, without restrictions on additional entrants, we issue certificates for an indefinite duration. Where limited-entry routes are involved, we issue temporary, experimental certificates of five years' duration. Since the last time we issued the authority at issue here to United, the United States and Peru implemented an open skies aviation agreement that does not place restrictions on designations, frequencies, or routes after June 12, 2002. Thus, we have renewed and reissued United's certificate authority for an indefinite duration.



Certificate of Public Convenience and Necessity

for

**Route 703
(as reissued)**

This Certifies That

United Air Lines, Inc.

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 2003-10-12
On August 26, 2003
Effective on October 14, 2003**

**Michael W. Reynolds
Acting Assistant Secretary for
Aviation and International Affairs**

Terms, Conditions and Limitations

United Air Lines, Inc. for **Route 703**

is authorized to engage in scheduled foreign air transportation of property and mail:

Between points in the United States, via intermediate points, and points in Peru and beyond.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights and has notified the foreign country(ies) involved that any such selected carrier(s) has the required authority. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.

- (4) The holder's authority under this certificate is effective only to the extent that such operations comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.
- (5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (6) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (7) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n), it must first comply with the requirements of 14 CFR 204.5.
- (8) In the event that the holder ceases all operations for which it was found "fit, willing and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been re-determined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (9) The authority granted to serve intermediate and beyond points on this certificate is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority under this certificate or by virtue of some other action of the Department.
- (10) The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided, that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should

be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in the holder's authority by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be considered as providing any preference for United in a competitive selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

*This certificate, issued by Order 96-7-33, is reissued to reflect renewal and expansion of authority in the U.S.-Peru market. It also incorporates new standard terms and conditions applicable to U.S. carriers.

United Air Lines, Inc.

Renewal of Certificate for **Route 130**

Filed: May 7, 2002 **Docket:** OST-96-1131 **Notice:** 67 FR (37906) 5/30/02

- I. **Authority Sought:** Renew authority to provide scheduled foreign air transportation of persons, property, and mail on segment 10 of Route 130 between any point or points in the United States, via any intermediate point or points, and any point or points in Japan, and any point or points beyond.
- II. **Relevant Currently Held Authority:** United currently holds certificate authority to serve the above market. Order 98-6-22. Under the terms of the certificate, United's authority to serve Japan expired on June 19, 2003. United filed a timely application for renewal and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application. United operates daily nonstop service between Honolulu/Los Angeles/New York/Seattle and Tokyo; twice daily service between Chicago/San Francisco and Tokyo; and daily service between San Francisco and Osaka.
- III. **Pleadings:** No answers were filed.
- IV. **Public Convenience and Necessity:** The authority granted is consistent with aviation agreement between the United States and Japan.
- V. **Fitness/Citizenship:** United has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under §41102 of Title 49 U.S.C. See, e.g., Order 2000-4-5. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations. Moreover, no information has come to our attention which would lead us to question United's fitness to conduct the air transportation operations authorized here.
- VI. **Terms, Conditions and Limitations:** Standard. We will amend United's certificate for Route 130 to reflect renewal of authority on segment 10 for another five years.
- VII. **Duration:** Five years. 49 U.S.C. §41102(c).

United Air Lines, Inc.

Renewal of Certificate for **Route 130**

Filed: May 7, 2002 **Dockets:** OST-1996-1248 **Notice:** 67 FR (37906) 5/30/02
OST-1996-1873 67 FR (37907)

- I. **Authority Sought:** Renew authority to provide scheduled foreign air transportation of persons, property and mail on segments 1, 4, 7, and 9 (Docket OST-1996-1873) and renew scheduled foreign air transportation of property and mail on segment 6 (Docket OST-1996-1248) between any point or points in the United States and any point or points in Japan, the Philippines, and Vietnam.
- II. **Relevant Currently Held Authority:** United holds combination authority to serve the above markets on segments 1, 4, 7, and 9 and all-cargo authority on segment 6. Order 97-10-8. Under the terms of the certificate, United's authority to serve Japan, the Philippines, and Vietnam expired November 17, 2002. United filed a timely application for renewal and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application.
- III. **Pleadings:** No answers were filed.
- IV. **Public Convenience and Necessity:** The authority granted to serve Japan and the Philippines is consistent with the aviation agreements between the United States and Japan, and the United States and the Philippines. Consistent with our standard practice, we will defer action on United's request for renewal to serve Vietnam. See, e.g., Order 97-10-8. That authority continues in effect pursuant to the automatic extension provisions of section 558(c) of the Administrative Procedure Act pending Department action on United's renewal application.
- V. **Fitness/Citizenship:** United has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under §41102 of Title 49 U.S.C. See, e.g., Order 2000-4-5. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations. Moreover, no information has come to our attention which would lead us to question United's fitness to conduct the air transportation operations authorized here.

- VI. **Terms, Conditions and Limitations:** Standard. We will amend United's certificate for Route 130 to reflect renewal of the Japan and Philippines authority for another five years.
- VII. **Duration:** Five years. 49 U.S.C. §41102(c).

United Air Lines, Inc.

Certificate Amendment for **Route 130**

Amend condition () as follows:

() The authority on segment 10 shall expire on October 14, 2008, unless the Department earlier suspends, modifies, or deletes the authority.

Amend condition (12) as follows:

(12) Except as noted, authority to serve countries listed below over their corresponding segments shall expire on October 14, 2008,

Segments 1, 4, 6, and 9	Japan
Segments 1, 6, and 7	Philippines
Segments 1 and 6	Vietnam ¹

Add a new condition to read as follows:

() The holder's authority under this certificate is effective only to the extent that such operations comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.

This certificate amendment shall become effective on October 14, 2003.

*This certificate last amended by Orders 98-6-22 and 97-10-8, is further amended to renew Japanese authority on segments 1,2,6,9, and 10 and Philippines authority on segments 1,6, and 7 for an additional five years. It also incorporates new standard terms and conditions applicable to U.S. carriers.

¹ Order 97-10-8 defers action on United's request to renew its authority between Vietnam and the then named points on segment 6 (New York, Detroit, Chicago, Seattle, San Francisco, Los Angeles, and Travis Air Force Base). The deferral will also apply to this certificate amendment. The above authority from named U.S. points continues in force pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558 (c), as implemented by 14 CFR Part 377, pending action on United's renewal application in Docket OST-1996-1873.

United Parcel Service Co.

Renewal of Certificate for **Route 795**

Filed: May 30, 2002 **Docket:** OST-1999-6345 **Notice:** 67 FR (41293) 5/30/02
Supplemented: June 4, 2002

- I. **Authority Sought:** Renew authority to provide scheduled foreign air transportation of property and mail on segment 2 between Miami, Florida, and Los Angeles, California; via intermediate points in Colombia, Ecuador, and Panama; and the coterminal points Manaus, Brasilia, Rio de Janeiro, Sao Paulo, Recife, Porto Alegre, Belem, Belo Horizonte, and Salvador, Brazil.
- II. **Relevant Currently Held Authority:** UPS currently holds certificate authority on segment 2 of Route 795 to serve the above route. Order 2000-6-7. Under the terms of the certificate, UPS' authority expired on December 8, 2002. UPS filed a timely application for renewal of its certificate and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application. UPS operates four weekly wide-body frequencies in the Miami-Brazil market.¹
- III. **Pleadings:** No answers were filed.
- IV. **Public Convenience and Necessity:** The authority granted is consistent with the aviation agreement between the United States and Brazil.
- V. **Fitness/Citizenship:** UPS has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of property and mail as a certificated air carrier under §41102 of Title 49 U.S.C. See, e.g., Order 2001-12-8. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question UPS' fitness to conduct the air transportation authorized here.
- VI. **Terms, Conditions and Limitations:** Standard. We will amend UPS' certificate for Route 795 to reflect renewal of the authority to serve Brazil for another five years.
- VII. **Duration:** Five years. 49 U.S.C. §41102(c).

¹ UPS holds an allocation of four weekly frequencies for its U.S.-Brazil service. (See Order 2000-6-7 at 6 and 7.)

Certificate Amendment

United Parcel Service Co. for **Route 795**

Amend conditions (5) and (12) as follows:

(5) The holder's authority under this certificate is effective only to the extent that such operations comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.

(12) The holder's authority on segment 2 shall expire on October 14, 2008, unless the Department earlier suspends, modifies, or deletes the authority.

This certificate amendment shall become effective on October 14, 2003.

*This certificate authority, issued by Order 2000-6-7, is amended to reflect renewal of the authority to serve between Miami/Los Angeles and various points in Brazil for an additional five years. It also incorporates new standard terms and conditions applicable to U.S. carriers.